

REMARKS

Reconsideration of the present application and entry of the amendment is respectfully requested. Claims 1 to 9, 11 to 17, 19 and 20 are currently pending, and claim 11 has been amended.

The Final Office Action mailed March 10, 2004 addressed claims 1 to 9, 11 to 17, 19 and 20. Claims 1 to 9, 11 to 17, 19 and 20 were rejected.

Claims 11 and 19 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner stated that claim 11 depends from claim 10, which has been canceled, and claim 19 depends from claim 11.

Claim 11 has been amended to correct the dependency and to depend from claim 1. Applicant respectfully submits that this overcomes the rejection and requests that the Examiner reconsider and withdraw the rejection of claims 11 and 19 under 35 U.S.C. § 112, second paragraph.

Claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Melvin et al. (US 5,779,562).

Applicant respectfully submits that the reference, Melvin '562, qualifies as prior art under 35 U.S.C. § 102(e) for the § 103(a) rejection. Based upon the new revision to 35 U.S.C. § 103(c), commonly owned prior art which qualifies as prior art under 35 U.S.C. § 102(e) in a rejection under § 103(a) is no longer "prior art" against the claims of a commonly owned application if the application is filed after the effective date of the new rule.

Application Serial No. 09/877,835 and U.S. Patent No. 5,779,562 were, at the time the invention of Application Serial No. 09/877,835 was made, owned by Spalding Sports Worldwide, Inc. Both Application Serial No. 09/877,835 and U.S. Patent No. 5,779,562 are currently commonly owned by Callaway Golf Company.

Because the present application and the Melvin '562 reference are commonly owned and the present application was filed on June 8, 2001 (after November 29, 1999), Applicant respectfully submits that the Melvin '562 patent no longer qualifies as prior art against the claims.

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For at least these reasons, Applicant respectfully submits that claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 are not obvious under 35 U.S.C. § 103(a) over Melvin '562. Applicant therefore respectfully requests that the rejection of claims 1 to 3, 5 to 9, 11 to 16, 19 and 20 be reconsidered and withdrawn.

Claims 4 and 17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Melvin et al. (US 5,779,562) in view of Yamagishi et al. (US 5,688,595) and further in view of Farrally et al. (Science and Golf III).

As discussed above, Applicant respectfully submits that the reference, Melvin '562, qualifies as prior art under 35 U.S.C. § 102(e) for the § 103(a) rejection. Based upon the new revision to 35 U.S.C. § 103(c), commonly owned prior art which qualifies as prior art under 35 U.S.C. § 102(e) in a rejection under § 103(a) is no longer "prior art" against the claims of a commonly owned application if the application is filed after the effective date of the new rule.

Application Serial No. 09/877,835 and U.S. Patent No. 5,779,562 were, at the time the invention of Application Serial No. 09/877,835 was made, owned by Spalding Sports Worldwide, Inc. Both Application Serial No. 09/877,835 and U.S. Patent No. 5,779,562 are currently commonly owned by Callaway Golf Company.

Because the present application and the Melvin '562 reference are commonly owned and the present application was filed on June 8, 2001 (after November 29, 1999), Applicant respectfully submits that the Melvin '562 patent no longer qualifies as prior art against the claims.

For at least these reasons, Applicant respectfully submits that claims 4 and 17 are not obvious under 35 U.S.C. § 103(a) over Melvin (US 5,779,562) in view of Yamagishi et al. (US 5,688,595) and further in view of Farrally et al. (Science and Golf III). Applicant therefore respectfully requests that the rejection of claims 4 and 17 be reconsidered and withdrawn.

The Examiner is invited to telephone Applicant's attorney if it is deemed that a telephone conversation will hasten prosecution of the application.

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CONCLUSION

Applicant respectfully requests reconsideration and allowance of each of the presently rejected claims, claims 1 to 9, 11 to 17, 19 and 20. Applicant respectfully requests allowance of claims 1 to 9, 11 to 17, 19 and 20, the claims currently pending.

Respectfully submitted,

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Date: May 7, 2004

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